

Agency 10

Kansas Bureau of Investigation

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Article 1.—DEFINITIONS

10-1-1. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 2.—COLLECTION AND REPORTING

10-2-1 to 10-2-4. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 3.—SECURITY

10-3-1 and 10-3-2. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12,

1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

10-3-3. (Authorized by K.S.A. 1980 Supp. 22-4704; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

10-3-4 and 10-3-5. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 4.—DISSEMINATION

10-4-1 to 10-4-3. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

10-4-4 to 10-4-7. (Authorized by K.S.A.

1980 Supp. 22-4704; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 5.—INSPECTION AND CHALLENGE

10-5-1 and 10-5-2. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

10-5-3 to 10-5-5. (Authorized by K.S.A. 1980 Supp. 22-4704; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 6.—AUDITING CRIMINAL JUSTICE AGENCIES

10-6-1 and 10-6-2. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 7.—REPORTABLE EVENTS; DUPLICATION

10-7-1. (Authorized by K.S.A. 1980 Supp. 22-4704; effective, E-81-6, March 12, 1980; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 8.—MAINTENANCE OF RECORDS

10-8-1. (Authorized by K.S.A. 1980 Supp. 22-4704; effective May 1, 1980; revoked, E-81-31, Oct. 8, 1980; revoked May 1, 1981.)

Article 9.—DEFINITIONS

10-9-1. Definitions. As used in these regulations, the following words and phrases shall have the meanings ascribed to them herein.

(a) “Disposition” means information disclosing that criminal proceedings have been concluded, including information disclosing that a law enforcement officer has elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reasons for such postponement. Dispositions shall include, but not be limited to,

acquittal, not guilty by reason of insanity, charge dismissed, guilty plea, nolle prosequi, nolo contendere plea, convicted, deceased, dismissed—civil action, pardoned, mistrial—defendant discharged, placed on probation, paroled, or released from correctional supervision.

(b) “Conviction” means all pleas of guilty, nolo contendere, or finding of guilty by a court or jury.

(c) “Non-conviction” means all acquittals, dismissals and releases authorized pursuant to K.S.A. 22-2406 or that a prosecutor has elected not to commence criminal proceedings.

(d) “Pending proceeding” refers to that period of time between arrest and disposition.

(e) “Direct access” means having the authority to access the criminal history record data base, whether by manual or automated means.

(f) “Criminal history record information” has the meaning ascribed to it at K.S.A. 1980 Supp. 22-4701(b). All information defined at K.A.R. 10-1-1(b), (c), and (d) is considered within this definition. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4705; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 10.—COLLECTION AND REPORTING

10-10-1. Accuracy and completeness. Prior to disseminating criminal history record information, a criminal justice agency shall make every reasonable effort to determine the accuracy of the record disseminated. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4707; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

10-10-2. Obligation to report. All criminal justice agencies obligated to report criminal history record information to the central repository shall do so within sixty (60) days of the reportable event to which the information relates, unless otherwise specified by law. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4705; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

10-10-3. Forms for reporting arrests. Agencies reporting arrests to the central repository shall use only forms provided by the Kansas bureau of investigation or Federal bureau of investigation. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4705;

effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

10-10-4. Reporting of dispositions. District attorneys, county attorneys, city attorneys and special prosecutors shall report the disposition of all cases in which an arrest was made within his or her jurisdiction to the central repository, except in those cases where the disposition has been reported by another criminal justice agency. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4705; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 11.—SECURITY

10-11-1. Personnel security; direct access. Direct access to criminal history record information is prohibited except by employees of a criminal justice agency. Physical security of criminal history record information shall be maintained by a criminal justice agency by storing such information in a way as to prevent direct access by anyone not authorized in this section. In addition, reasonable steps shall be taken by a criminal justice agency to insure that criminal history record information will be secure from theft, sabotage, fire, wind, and other natural or man-made disasters. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4706; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

10-11-2. Transmission of non-conviction criminal history record information. Except when necessary to protect human life, non-conviction criminal history record information shall not be transmitted by any means which may be lawfully intercepted by a person not authorized to have direct access to such information. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4707; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 12.—DISSEMINATION

10-12-1. Dissemination of conviction records. (a) Except as provided in subsection (c), the KBI shall be the sole agency releasing criminal history record information from the Kansas central repository for non-criminal justice purposes. Upon request by any individual, the KBI may, at its discretion, release conviction information from the central repository. Each request for conviction information shall include the name, sex, and date

of birth of the individual in question and shall be accompanied by a fee as prescribed by the director of the KBI.

(b) Upon a request by a non-criminal justice agency or an individual, a criminal justice agency other than the KBI may provide any conviction information originated by that criminal justice agency. Each request for a conviction record shall include as part of the request the name, sex, and date of birth of the individual in question.

(c) A criminal justice agency may obtain conviction information from the KBI for a non-criminal justice purpose only if required under a municipal ordinance or county resolution for governmental licensing or certification purposes. (Authorized by K.S.A. 22-4704; implementing K.S.A. 22-4707; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981; amended April 19, 2002.)

10-12-2. Dissemination of non-conviction criminal history record information. Criminal justice agencies may provide non-conviction criminal history record information to the following: (a) other criminal justice agencies;

(b) those authorized by court order or subpoena; and

(c) federal agencies for such investigative purposes as authorized by law or presidential executive order. (Authorized by K.S.A. 1982 Supp. 22-4704; implementing K.S.A. 1982 Supp. 22-4707; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981; amended May 1, 1984.)

10-12-3. Dissemination by criminal-justice information system employees. Persons employed as part of a criminal justice information system, which is not operated by a criminal justice agency, shall disseminate criminal history record information only to a criminal justice agency as defined in K.S.A. 1980 Supp. 22-4701. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4707; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 13.—INSPECTION AND CHALLENGE

10-13-1. Right to review and challenge decisions. (a) Upon presentation of proper identification, a person may request a copy of that person's criminal history record information and juvenile offender information retained at the local level or at the KBI. Requested criminal history record information and juvenile offender infor-

mation may be provided in abstract form by mail or electronic transmission, at the discretion of the providing agency. The providing agency shall include with the record written notification to the individual of the right to challenge the accuracy of the content of the individual's record and the procedures to submit these challenges. Any unresolved challenge may be reviewed by the director of the KBI or the authorized designee.

(b) All corrections made to the record by local agencies shall be reported to the KBI. (Authorized by K.S.A. 22-4704; implementing K.S.A. 22-4709, 38-1608, 38-1618; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981; amended April 19, 2002.)

10-13-2. Inspection and challenge. The inability of a criminal justice agency to locate a disposition shall not be reason for denying an individual's right of inspection and challenge on grounds that the record is incomplete. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4709; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 14.—AUDITING CRIMINAL JUSTICE AGENCIES

10-14-1. Logging of disseminations. All disseminations shall be logged, including disseminations made by radio transmission pursuant to K.A.R. 10-11-2 except that, radio transmissions of conviction data are not subject to this requirement. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4706; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

10-14-2. Disclosure of dissemination log. Dissemination logs shall be confidential and released only to a criminal justice agency. (Authorized by K.S.A. 1980 Supp. 22-4704; implementing K.S.A. 1980 Supp. 22-4707; effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 15.—REPORTABLE EVENTS; DUPLICATION

10-15-1. Reportable events, duplication. No criminal justice agency shall knowingly provide a duplicate report of an event required by K.S.A. 1980 Supp. 22-4705. A criminal justice agency may fulfill its reporting responsibility by agreements with other criminal justice agencies. (Authorized by K.S.A. 1980 Supp. 22-4704, 22-4705; implementing K.S.A. 1980 Supp. 22-4706;

effective, E-81-31, Oct. 8, 1980; effective May 1, 1981.)

Article 16.—COLLECTION AND REPORTING

10-16-1 to 10-16-3. (Authorized by L. 1983, Ch. 140, Sec. 36; effective May 1, 1984; revoked, T-86-1, Jan. 9, 1985; revoked May 1, 1986.)

10-16-4. (Authorized by L. 1983, Ch. 140, Sec. 35; effective May 1, 1984; revoked, T-86-1, Jan. 9, 1985; revoked May 1, 1986.)

Article 17.—REPORTABLE EVENTS; DUPLICATION

10-17-1. (Authorized by L. 1983, Ch. 140, Sec. 35; effective May 1, 1984; revoked, T-86-1, Jan. 9, 1985; revoked May 1, 1986.)

10-17-2 and 10-17-3. (Authorized by L. 1983, Ch. 140, Sec. 36; effective May 1, 1984; revoked, T-86-1, Jan. 9, 1985; revoked May 1, 1986.)

Article 18.—IMPLEMENTATION; ADMINISTRATION

10-18-1 and 10-18-2. (Authorized by L. 1983, Ch. 140, Sec. 36; effective May 1, 1984; revoked, T-86-1, Jan. 9, 1985; revoked May 1, 1986.)

Article 19.—JUVENILE JUSTICE INFORMATION SYSTEM

10-19-1. Definitions. As used in these regulations, the following words and phrases shall have the meanings ascribed to them herein.

(a) "Juvenile" means any person under the legal age of majority.

(b) "Juvenile justice information system" means data initiated or collected by a juvenile justice agency on a person under the age of majority, including any juvenile offender, any child in need of care, and any person under the age of majority processed through adult court.

(c) "Missing child" means any person under the age of 18 whose location has not been determined, who has been reported missing, and for whom a verified report has been filed with local law enforcement.

(d) "Runaway" means any person under the age of 18 who has been reported to be a runaway and for whom a verified report has been filed with the local law enforcement agency. (Authorized by and implementing K.S.A. 1983 Supp. 38-1617, 38-

1618, and L. 1984, Ch. 115, Sec. 1, Sec. 2; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-2. Additional reportable events.

Additional reportable events shall include: (a) clearance of an offense through the identification of an alleged perpetrator;

- (b) the issuance of a summons;
- (c) filing or non-filing of a complaint;
- (d) diversion activities;
- (e) an order of temporary custody;
- (f) referral of a child in need of care to law enforcement;
- (g) filing or non-filing of a petition;
- (h) entry of a judgement of an appellate court; and

(i) reports of missing or runaway juveniles. (Authorized by and implementing K.S.A. 1983 Supp. 38-1617, and L. 1984, Ch. 115, Sec. 1; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-3. Obligation to report. Each juvenile justice agency obligated to report to the juvenile justice information system shall do so within 14 days of the occurrence of the reportable event to which the information relates, unless otherwise specified by law.

Reports of missing or runaway juveniles shall be made immediately to the system upon receipt by the local agency with concurrent entry into the national crime information center system. (Authorized by and implementing K.S.A. 1983 Supp. 38-1618, and L. 1984, Ch. 115, Sec. 2; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-4. Accuracy and completeness.

Each juvenile justice agency shall make all necessary efforts to ensure the accuracy and completeness of data supplied to the juvenile justice information system. (Authorized by and implementing K.S.A. 1983 Supp. 38-1618, and L. 1984, Ch. 115, Sec. 2; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-5. Forms for reporting. Data supplied to the juvenile justice information system shall be on forms, or in a format, approved by the director of the KBI. (Authorized by and implementing K.S.A. 1983 Supp. 38-1618, and L. 1984, Ch. 115, Sec. 2; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-6. Duplication in reporting. No juvenile justice agency shall knowingly provide a

duplicate report of an event required by the juvenile justice information system. (Authorized by and implementing K.S.A. 1983 Supp. 38-1618, and L. 1984, Ch. 115, Sec. 2; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-7. Responsibility for reporting.

Events which shall be reported include the following. (a) Each law enforcement agency shall report:

- (1) clearance of an offense through the identification of an alleged perpetrator;
- (2) contacts pursuant to the child in need of care code;
- (3) taking a juvenile into custody;
- (4) release of a juvenile without referral to the county or district attorney;
- (5) placement of a juvenile in a detention shelter or youth residential facility;
- (6) release of a juvenile from a juvenile detention facility;
- (7) fingerprinting of juveniles taken into custody for a felony-type offense;
- (8) referral of a juvenile to the county or district attorney or the department of social and rehabilitation services; and
- (9) reports of missing or runaway juveniles.

(b) Each detention, shelter or youth residential facility shall report:

- (1) admissions;
- (2) releases;
- (3) escapes from custody; and
- (4) issues relative to the state's compliance with the federal juvenile justice and delinquency prevention act.

(c) Each county or district attorney shall report:

- (1) the filing or non-filing of a petition;
 - (2) the filing or non-filing of a complaint;
 - (3) issuance of an ex parte order to take a child into custody;
 - (4) issuance of an order of temporary custody for a child in need of care;
 - (5) detention hearings; and
 - (6) diversion activities;
- (d) Each court shall report:
- (1) issuance of a warrant or summons;
 - (2) probation;
 - (3) dismissals;
 - (4) adjudications;
 - (5) pleadings;
 - (6) dispositions;
 - (7) motions for waiver;
 - (8) appeals;

- (9) termination of parental rights;
- (10) hearings relative to placement; and
- (11) release from jurisdiction or custody.

(e) Each correctional agency and SRS agency shall report:

- (1) referrals to the county or district attorney for the filing of a petition or a complaint;
- (2) admissions;
- (3) releases from custody or jurisdiction;
- (4) escapes from commitment or placement; and

(5) treatment during supervision. (Authorized by and implementing K.S.A. 1983 Supp. 38-1618, and L. 1984, Ch. 115, Sec. 2; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-8. Implementation, administration, enforcement. When any data on a juvenile offender of an identifiable nature is released to a party specifically authorized by law to receive that data, and when the accuracy of the identification cannot be determined due to the absence of fingerprint records for comparison, the data shall be accompanied by a statement attesting to the lack of positive identification of the subject of the data.

Release of any data on a child in need of care of an identifiable nature is strictly limited as defined by statute.

Juvenile justice agencies failing to report as required by these sections shall be referred to the attorney general for appropriate action. (Authorized by and implementing K.S.A. 1983 Supp. 38-1618, and L. 1984, Ch. 115, Sec. 2(f); effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

10-19-9. Fingerprints and photographs.

(a)(1) Fingerprints taken of any person under the age of majority for state and local purposes shall be taken on standardized juvenile fingerprint cards as provided by the central repository. Disposition forms shall not be required on these fingerprints.

(2) If any person is processed for an adult violation or if any person will be handled as an adult by the court, that person's fingerprints shall also be taken on an FBI card. The FBI card shall indicate that the person will be handled as an adult. If the person is 16 or 17 years of age, an FBI card may be taken. Disposition sheets shall be completed for all FBI cards taken.

(b) All fingerprints taken on persons under the age of majority and the related disposition sheets shall be submitted to the central repository for

processing within 14 days of the date they were taken.

The arresting agency or the agency serving summons shall have the responsibility for ensuring that required fingerprints are taken. (Authorized by and implementing L. 1984, Ch. 157, Sec. 3; effective, T-86-1, Jan. 9, 1985; effective May 1, 1986.)

**Article 20.—MISSING PERSONS;
UNIDENTIFIED DECEASED PERSONS**

10-20-1. Definitions. As used in these regulations, the following terms shall have the meanings specified in this regulation: (a) "Missing person" means any person of any age whose location is not currently known and who is reported missing by any individual.

(b) "Missing and unidentified person system" means the state system maintained by the KBI that contains information on missing persons and unidentified persons.

(c) "NCIC" means the federal bureau of investigation's (FBI's) national crime information center.

(d) "Unidentified person" means any unidentified deceased person, any person of any age who is living and whose identity cannot be ascertained, any unidentified victim of a catastrophe, or any human remains. (Authorized by and implementing K.S.A. 2006 Supp. 75-712b; effective May 1, 1986; amended May 4, 2007.)

10-20-2. Procedures and forms for reporting any missing person. (a) All law enforcement agencies shall accept without delay any report of a missing person made by any individual.

(b) Unless law enforcement knows the exact physical location of any missing person, the law enforcement agency shall upon receipt of the report enter the information into NCIC as prescribed by the chapter titled "missing person file," which is contained in the "NCIC 2000 operating manual," as in effect on November 8, 2006 and hereby adopted by reference, to create an active record.

(c) After the initial NCIC entry report has been made, the law enforcement agency shall attempt to obtain additional information as prescribed by the "NCIC missing person file data collection entry guide," revised February 2006 and hereby adopted by reference, and enter the information into NCIC as promptly as possible and no longer than 30 days from the date of the initial report.

(d) If the person identified in the missing person report remains missing after 30 days, the law enforcement agency shall contact family members of the missing person and attempt to obtain DNA samples for comparison purposes as prescribed by the “national missing persons program family reference sample collection kit,” dated April 2005 by the U.S. department of justice and hereby adopted by reference.

(e) The law enforcement agency shall advise the reporting party to notify the law enforcement agency no later than 24 hours after the missing person returns or is located.

(f) Upon locating each missing person, the law enforcement agency shall remove the entry from NCIC.

(g) A law enforcement agency shall not remove a missing person’s report from NCIC based solely on the person’s age. (Authorized by and implementing K.S.A. 2006 Supp. 75-712b; effective May 1, 1986; amended July 7, 1997; amended May 4, 2007.)

10-20-2a. Procedures and forms for reporting any unidentified person. (a) All law enforcement agencies shall accept without delay any report of any unidentified person made by any individual.

(b) The law enforcement agency shall upon receipt of the report enter the information into NCIC as prescribed by the chapter titled “unidentified person file,” which is contained in the “NCIC 2000 operating manual,” as in effect on November 8, 2006 and hereby adopted by reference, to create an active record.

(c) After the initial NCIC entry report has been made and at the time of autopsy of any unidentified deceased person, the law enforcement agency shall obtain and immediately enter information into NCIC as prescribed by the “NCIC unidentified person file data collection entry guide,” revised February 2006 and hereby adopted by reference. In the case of an unidentified living person, law enforcement shall obtain and enter information as prescribed in this subsection as promptly as possible and no longer than 30 days from the date of the initial report. (Authorized by and implementing K.S.A. 2006 Supp. 75-712b, K.S.A. 2006 Supp. 75-712c, and K.S.A. 2006 Supp. 75-712d; effective April 19, 2002; amended May 4, 2007.)

10-20-3. (Authorized by and implementing

K.S.A. 75-712b(d)(1); effective May 1, 1986; revoked July 7, 1997.)

10-20-4. Dissemination. (a) All information contained in the KBI missing and unidentified person system shall be available to all law enforcement officers and coroners in this state, other governmental entities in the state who have a need to know the information for criminal justice purposes, and the federal bureau of investigation.

(b) Any member of the public may request data from the KBI missing and unidentified person system at any time and receive information in accordance with Kansas law. (Authorized by and implementing K.S.A. 75-712b, as amended by L. 2006, ch. 37, sec. 1; effective May 1, 1986; amended July 7, 1997; amended May 4, 2007.)

Article 21.—KANSAS BUREAU OF INVESTIGATION DNA DATABANK

10-21-1. Definitions. As used in this article, the following terms shall have the meanings specified below:

(a) “CODIS” (Combined DNA index system) means the federal bureau of investigation’s (FBI) national DNA identification index system that allows the storage and exchange of DNA records submitted by state and local forensic DNA laboratories.

(b) “Convicted offender” means a person 18 years of age or older who commits an act that constitutes the commission of one of the crimes listed in K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto, and is convicted by a court.

(c) “DNA” means deoxyribonucleic acid. DNA is located in the nucleus of cells and provides an individual’s personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.

(d) “DNA analysis” means the process through which DNA in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.

(e) “DNA databank” means the repository of DNA samples collected under the provisions of K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto.

(f) “DNA database” means the Kansas bureau of investigation’s (KBI) DNA identification record system. It is administered by the KBI and provides DNA records to the FBI for storage and mainte-

nance in CODIS. The KBI's DNA database system is computer software and procedures administered by the KBI, to store and maintain DNA records regarding forensic casework, certain convicted offenders, and juvenile offenders, and DNA records used for research or quality control.

(g) "DNA record" means DNA identification information stored in the state DNA database or CODIS. The DNA record is the result obtained from the DNA analysis tests. The DNA record is comprised of the characteristics of a DNA sample that are of value in establishing the identity of individuals. The DNA record shall not contain any of the personal information submitted to the KBI on any form prescribed by the director of the KBI. The results of all DNA identification tests on an individual's DNA sample are also collectively referred to as the DNA profile of an individual.

(h) "DNA samples" means one blood sample and one saliva sample provided by any convicted offender or juvenile offender, or submitted to the KBI laboratory for analysis pursuant to a criminal investigation.

(i) "FBI" means the federal bureau of investigation.

(j) "Juvenile offender" means a person who meets the following criteria:

(1) Is 10 or more years of age, but less than 18 years of age;

(2) performs an act while a juvenile that, if done by an adult, would constitute the commission of one of the crimes listed in K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto; and

(3) is adjudicated by a court.

(k) "KBI" means the Kansas bureau of investigation.

(l) "Law enforcement" means those law enforcement officers and agencies authorized to receive information under K.S.A. 21-2511(f) or 22-4901 et seq., and amendments thereto.

(m) "NDIS" (national DNA index system) means the federal bureau of investigation's (FBI) centralized system of DNA identification records contributed by state and local forensic DNA laboratories. (Authorized by and implementing K.S.A. 2001 Supp. 21-2511; effective Dec. 22, 1995; amended April 19, 2002.)

10-21-2. Purpose of DNA identification.

The DNA databank shall be utilized only for the following purposes:

(a) For identifying investigative leads in criminal investigations;

(b) for locating missing persons;

(c) for identifying unknown human remains;

(d) for a population statistic database, after personal identifiable information is removed; or

(e) for research, protocol development, and quality control, after personal identifiable information is removed. (Authorized by and implementing K.S.A. 2001 Supp. 21-2511; effective Dec. 22, 1995; amended April 19, 2002.)

10-21-3. Procedural compatibility with the FBI. (a) The DNA database as established by the KBI shall be compatible with the following documents, all of which are hereby adopted by reference:

(1) "National DNA index system (NDIS): NDIS standards for acceptance of DNA data," dated January 2000;

(2) "quality assurance standards for forensic DNA testing laboratories," effective October 1998; and

(3) "quality assurance standards for convicted offender DNA databasing laboratories," effective April 1999.

(b) DNA samples shall be received by the KBI for storage and analysis. The DNA analysis may be conducted under contract with the KBI by a qualified DNA laboratory that meets KBI procedural guidelines.

(1) Each DNA record submitted pursuant to K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto, shall be classified and filed by the KBI for the purposes specified in K.A.R. 10-21-2.

(2) The DNA profile of individuals in the state database shall be made available to local, state, and federal law enforcement agencies, approved CODIS crime laboratories that serve these agencies, and the county or district attorney's office in furtherance of an official investigation of a criminal offense.

(3) If the laboratory is a non-CODIS crime laboratory, the laboratory request shall be submitted in compliance with the procedures specified in the documents adopted in subsection (a).

(c) A separate population database comprised of blood samples obtained pursuant to K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto, shall be created by the KBI after all personal identification is removed.

(1) The KBI's population databases may be shared with or disseminated to other law enforcement agencies, crime laboratories that serve them, and other third parties that the KBI deems

necessary to assist the KBI with statistical analysis of the KBI's population database.

(2) The population database may be made available to and searched by other agencies participating in the CODIS system. (Authorized by and implementing K.S.A. 2000 Supp. 21-2511, as amended by L. 2001, ch. 208, sec. 2; effective Dec. 22, 1995; amended April 19, 2002.)

10-21-4. Expungement. (a) Any person whose DNA record or profile has been included in the DNA database and whose DNA samples are stored in the databank may apply for expungement on any of the following grounds:

(1) The felony conviction that resulted in the inclusion of the person's DNA record or profile in the database or the inclusion of the person's DNA sample in the databank has been reversed or dismissed.

(2) The person has been acquitted on retrial.

(3) The person has been pardoned by the governor of the state of Kansas pursuant to article 1, section 7 of the constitution of the state of Kansas and any implementing legislation.

(b) The person, either individually or through an attorney, may make application to the KBI for expungement of the record. The written application for expungement shall be on a form approved by the KBI and shall include the following information about the person:

- (1) Name;
- (2) date of birth;
- (3) sex;
- (4) race;
- (5) place of birth, including city and state;
- (6) district court case number and county; and
- (7) offense or offenses.

(c) The application shall be forwarded to the KBI along with a certified copy of the final order of reversal, dismissal, acquittal, or pardon, which shall be attached to the application for expungement.

(d) When an application for expungement is submitted, the record contained in the state's DNA databank and database shall be reviewed by the KBI to confirm the existence of the record and the identity of the contributor. The DNA record and all other identifiable information shall be purged from the DNA database, and the DNA sample stored in the DNA databank shall be purged after the contributor no longer meets the requirements to submit blood and saliva pursuant

to K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto.

(e) If the individual has more than one offense that requires submission of blood and saliva samples to the state DNA database, DNA databank, and CODIS, if applicable, then only the offense covered by the expungement shall be expunged. The samples submitted shall be retained if additional offenses require retention pursuant to K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto.

(f) If an individual has a record expunged, that individual shall be treated as not having had a DNA record in the DNA database, DNA databank, or CODIS for that offense.

(g) Upon receiving information regarding a contributor, a record may be expunged by the KBI on its own initiative according to this article.

(h) The Kansas department of corrections shall be notified by the KBI when the record of any inmate who has contributed DNA while housed with the department of corrections is expunged. (Authorized by and implementing K.S.A. 2001 Supp. 21-2511; effective Dec. 22, 1995; amended April 19, 2002.)

10-21-5. Maintenance. (a) DNA records maintained at the KBI shall be treated as confidential as provided in K.S.A. 21-2511 and 22-4901 et seq., and amendments thereto.

(b) A criminal defendant's rights to access DNA testing information during the course of a criminal case shall be governed by existing rules of discovery of scientific evidence in criminal cases.

(c) Access to blood and saliva samples shall be limited only to forensic DNA analysis for profiles to be included in the DNA databank.

(d) All DNA records obtained by the KBI shall be maintained, preserved, and securely stored at the KBI for not less than 10 years. (Authorized by and implementing K.S.A. 2000 Supp. 21-2511, as amended by L. 2001, ch. 208, sec. 2; effective Dec. 22, 1995; amended April 19, 2002.)

10-21-6. Collection of samples for DNA databank procedures. (a) The collection, labeling, storage, handling, preservation, and shipment of blood and saliva samples obtained from convicted felons pursuant to K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto, for the DNA databank shall be in conformance with a form prescribed by the director of the KBI. Cop-

ies of the applicable protocol may be obtained from the KBI DNA laboratory.

(b) Each offender shall be positively identified using photo identification before taking the blood and saliva samples.

(c) When the offender is positively identified, one blood sample and one saliva sample shall be taken from the offender in a reasonable manner according to generally accepted medical practices.

(d) These samples shall be taken using only the DNA sample collection kit provided by the KBI.

(e)(1) The DNA information sheet provided in the collection kit shall be completed, providing all relevant information requested on the form.

(2) The offender's left and right thumbs shall be imprinted by means of an inked impression in the spaces indicated on the form.

(3) The person taking the blood and saliva samples and one other witness shall complete and sign, as indicated on the form, a verification that the blood sample and saliva sample were taken from the positively identified offender. Additional supplies may be obtained from the KBI DNA laboratory.

(f) All samples so collected shall be transmitted within 72 hours of collection to the KBI in the manner prescribed in the instructions.

(g) Results from the DNA analysis made from blood or saliva samples, or both, obtained from convicted felons under K.S.A. 21-2511 or 22-4901 et seq. and amendments thereto, shall be entered into the DNA database and CODIS.

(h) Each convicted offender or juvenile offender placed on probation and required to provide blood and saliva samples shall provide the samples within 10 days after sentencing or disposition.

(1) Court services officers or community corrections officers shall facilitate the collection of DNA samples.

(2) The offender may have the DNA sample collection kit completed at any public health agency, clinic, hospital, or any other facility with persons qualified to draw blood as provided in K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto.

(i) Each convicted offender sentenced to the custody of the secretary of corrections and each juvenile offender placed in a youth residential facility or in a state youth center shall provide these samples upon arrival. The collection of DNA samples shall be facilitated by the department of corrections and SRS, as appropriate.

(j) Each convicted offender or juvenile offender currently incarcerated and required to provide blood and saliva samples shall provide these samples before release, discharge, or parole.

(k) Each convicted offender or juvenile offender paroled and required to provide blood and saliva samples shall provide the samples within 10 days of being paroled.

(1) Parole officers shall facilitate the collection of DNA samples.

(2) The offender may have the DNA sample collection kit completed at any public health agency, clinic, hospital, or any other facility with persons qualified to draw blood as provided in K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto.

(l) Any convicted offender or juvenile offender placed on probation, parole, or community corrections or in SRS custody may have the blood sample collection kit completed at any public health agency, clinic, hospital, or any other facility with persons qualified to draw blood as provided in K.S.A. 21-2511 or 22-4901 et seq., and amendments thereto.

(m) Each convicted offender or juvenile offender sentenced or receiving a disposition to a term of incarceration in the county jail and required to provide blood and saliva samples shall provide these samples upon arrival.

(n) When any convicted offender or juvenile offender is placed on probation, parole, or community corrections or in SRS custody, the cost or fee associated with collection of the DNA sample shall be paid by the offender. (Authorized by and implementing K.S.A. 2001 Supp. 21-2511; effective Dec. 22, 1995; amended April 19, 2002.)

Article 22.—FIELD TESTING FOR CONTROLLED SUBSTANCES

10-22-1. Approved field tests. (a) Law enforcement officers shall use only the field tests specified in this regulation on suspected controlled substances for admission of the field test results at any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto.

(b) The following field tests shall be the only field tests approved by the director of the Kansas bureau of investigation (KBI):

- (1) Chen's reagent;
- (2) cobalt thiocyanate reagent;
- (3) Dille-Koppanyi reagent;
- (4) Duquenois-Levine reagent;

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| (5) Ehrlich's reagent; | (11) nitric acid reagent; |
| (6) Fast Blue B or BB reagent or the salts of either reagent; | (12) Sanchez reagent; |
| (7) Fröhdes reagent; | (13) Scott reagent; |
| (8) Mandelin reagent; | (14) sodium nitroprusside reagent; and |
| (9) Marquis reagent; | (15) Zwikker reagent. (Authorized by and implementing K.S.A. 2004 Supp. 22-2902c; effective March 11, 2005; amended June 17, 2005.) |
| (10) Mecke's reagent; | |